

MEMORANDUM

June 27, 2007

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: BRIAN T. CHU
Principal Deputy County Counsel
General Litigation Division

RE: **Claim of Wendy Lim**

DATE OF
INCIDENT: March 10, 2007

AUTHORITY
REQUESTED: \$62,409.63


COUNTY
DEPARTMENT: Department of Public Works


CLAIMS BOARD ACTION:

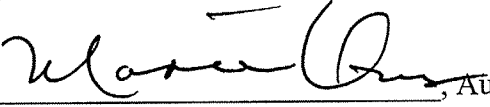
☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Executive Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on August 6, 2007

SUMMARY

This is a recommendation to settle for \$62,409.63 the claim presented by Wendy Lim, seeking compensation for damages to her home and personal property caused by a sewer back-up, resulting from a sewer main line blockage on March 10, 2007.

LEGAL PRINCIPLE

The County may be held liable for inverse condemnation based on a claim for property damages caused by a sewer blockage.

SUMMARY OF FACTS

At approximately 2:00 p.m. on March 10, 2007, the County received a complaint about a sewer problem at the residence of Wendy Lim located at 28951 Crestridge Road, City of Rancho Palos Verdes. A County sewer crew investigated the complaint and found that the wastewater level in the sewer main line was high, but not overflowing, at Manhole No. 473. The County crew rodded the main line south of Crestridge Road between Manhole Nos. 473 and 474 and relieved a stoppage created by overgrown roots. The crew also rodded and hydro-washed the main line between Manhole Nos. 474 and 466 and relieved an additional compound blockage. The wastewater, however, caused damage to the interior baseboard and associated trim, furnishings and other personal property in Ms. Lim's home.

This section of the main line had been on a semi-annual inspection schedule as part of the Consolidated Sewer Maintenance District's ("CSMD") preventative maintenance program. Previous to this incident, the main line was inspected on April 27, 2006, and conditions were found to be normal.

DAMAGES

The clean-up of Ms. Lim's home was performed through the Public Works Department's ("Department") Rapid Response Program. Repairs of the home included removal of the baseboard and trim. Carpeting and tile were also removed and replaced in the areas of contamination. Environmental testing was performed through this program to mitigate the cost of remediation.

Ms. Lim's claim for personal property was adjusted for depreciation. Her total damages are categorized as follows:

Property Clean-Up & Testing	\$19,030.92
Property Repairs	\$33,781.58
Personal Property Damage	<u>\$ 9,597.13</u>
TOTAL	\$62,409.63

If Ms. Lim files suit and prevails on the inverse condemnation claim, she will also be entitled to attorneys' fees and expert costs. Ms. Lim is not yet represented by counsel.

STATUS OF CASE

Ms. Lim presented this claim on April 2, 2007. She has until March 10, 2009, to file suit. Under the Department's Rapid Response Program, the County undertakes an immediate on-site investigation by the responding sewer crew which determines the cause of the blockage. If the County determines that liability is undisputed, repairs to the home and settlement negotiations are undertaken expeditiously, so that additional litigation costs can be avoided. The County has not yet incurred attorneys' fees or costs in this matter.

EVALUATION

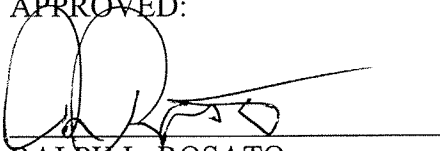
The main sewer line at this location is owned by the City of Rancho Palos Verdes and included in the CSMD, which is maintained by the County. It is undisputed that roots created a stoppage in the main line and that wastewater backed-up into Ms. Lim's residence through the lateral line. The absence of any other identifiable cause for the blockage will likely result in liability for inverse condemnation. Further, the main line had not been inspected within six months of the prior inspection on April 27, 2006, because of a lack of resources for this particular area. Based on this incident, the Department intends to place this section of the main line on a 90-day periodic cleaning cycle. The Department has also suggested to Ms. Lim that a backflow valve be installed along her lateral line and maintained in a safe and sanitary condition to avoid the recurrence of a back-up into the residence.

The amounts claimed for clean-up and environmental testing were evaluated and appear reasonable. Also, the amount claimed for repair was evaluated with computer software used as a standard in the insurance industry for property damage claims. Ms. Lim's claim for her damaged personal property was negotiated to account for depreciation and appears reasonable. If Ms. Lim were to file suit and prevail based on inverse condemnation, she would be entitled to recover attorneys' fees and expert costs. When added to the property damages, a total award would significantly exceed the proposed settlement amount.

RECOMMENDATION

We join our third party administrator, Carl Warren & Company, in recommending a total settlement of this matter in the amount of \$62,409.63. The Department of Public Works concurs in this settlement recommendation.

APPROVED:

A handwritten signature in black ink, appearing to read 'RALPH L. ROSATO', is written over a horizontal line.

RALPH L. ROSATO
Assistant County Counsel
General Litigation Division

RLR:BTC:RH